



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MICHAEL J. SULLIVAN  
DIRECTOR

October 3, 1995  
AO-95-34

Mr. Frederick R. Koed  
92 Pleasant Street  
Cohasset, MA 02025

Re: Serving as Chairman of Political Committee

Dear Mr. Koed:

This letter is in response to your September 11, 1995 request for an advisory opinion.

Question. May a person employed by a state agency which is federally funded serve as chairman of a candidate committee?

Answer. Yes, although it would be very difficult to serve as chairman due to prohibitions against public employee fundraising established by the campaign finance law.

Facts: You have stated that you are employed by the Massachusetts Office for Refugees and Immigrants (ORI), an agency established pursuant to M.G.L. c. 6, s. 205. ORI is funded entirely by the federal government. You are supervised by persons employed by the Commonwealth, and you are directly paid by the Commonwealth, participate in the Commonwealth's retirement programs and receive all the other benefits of non-federally funded state employees.

You wish to serve as a campaign committee chairman in a state election with a primary election in September 1996 and the general election in November 1996. You have stated that the position would not be a finance committee chairmanship and would not "directly" involve the raising of money.

Discussion: For the reasons discussed below, you may serve as a chairman of a political committee, but only if you ensure that you do not directly or indirectly engage in fundraising activities. I would note, however, that it is very difficult to insulate yourself from such fundraising activity as the chairman during a campaign.

M.G.L. c. 55, s. 13 states, in pertinent part:

No person employed for compensation, other than an elected officer, by the commonwealth or any county, city or town shall directly or indirectly solicit or receive any gift, payment, contribution,

assessment, subscription or promise of money or other thing of value for the political campaign purposes of any candidate for public office or of any political committee, or for any political purposes whatever, but this section shall not prevent such person from being members of political organizations or committees. [Emphasis added].

Although your office is federally funded, you are a person "employed for compensation . . . by the Commonwealth," i.e., a "public employee." This is because you are paid from a state account, receive a state paycheck, participate in the state's retirement program, receive other state benefits such as health insurance common to other state employees and your work is authorized and supervised by the Commonwealth. See AO-91-16.<sup>1</sup>

Section 13 of M.G.L. c. 55 prohibits a public employee's participation in political fund-raising activities. You may not directly solicit or receive monies. You also may not indirectly solicit or receive monies, for example, by having your name on the letterhead of a fund-raising letter or being the featured speaker at a fund raising event. The prohibition against indirect fundraising means that "what a public employee can not do directly (ask a friend for a contribution) can not be done in a 'roundabout' or indirect manner (help someone else to ask the employee's friend)." See AO-93-10 and IB-92-01. You also may not serve as a chairperson of a committee or subcommittee which is specifically organized for the purpose of political fundraising or marketing. See AO-93-10 (public employees may not participate in fundraising meetings or strategy planning).

In addition, section 15 of M.G.L. c. 55 states that "persons in the service" of the commonwealth may not "give or deliver to an officer, clerk or [other] person in said service . . . any money or other valuable thing on account of, or to be applied to, the promotion of any political object whatever." Therefore, since you are a "person in the service" of the commonwealth, you may not give funds to or receive funds from, other "persons in the service."<sup>2</sup>

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<sup>1</sup> Your employment by a state agency which receives federal funds may subject you to restrictions under federal law in addition to those imposed by state law. I understand that you have contacted the U.S. Merit Systems Protection Board, which administers the Hatch Political Activity Act, to determine your obligations under federal law.

<sup>2</sup> You have stated that you are also a commissioner on the state board of registration of real estate brokers and salesmen and chairman of the Cohasset Water Commission and hold other positions which may or may not raise questions under sections 13 and 15. Since your position in ORI causes you to be subject to these sections, we do not have to consider whether the other positions similarly require you to limit your political activity.

Conclusion: Sections 13 and 15 do not prohibit a person employed for compensation by the Commonwealth from joining or being part of a political committee, other than serving as treasurer. See AO-95-25. Therefore, you may be a chairman of such a committee, although I would note that it is difficult for a public employee to meet his or her obligations and responsibilities as an officer (particularly as chairperson) of a political committee in view of the restrictions imposed by sections 13 and 15.

I have enclosed a Guide to Political Activity for State, County and Municipal Employees, which describes the restrictions on political fund-raising activities resulting from section 13's prohibition against the direct or indirect solicitation and receipt of monies by public employees as well as section 15's restrictions and other provisions of chapter 55 which restrict your fundraising activity.

This opinion has been rendered solely on the basis of representations made in your letter and conversation with the Office's Assistant Counsel.

Please do not hesitate to contact this Office if you have additional questions regarding campaign finance matters.

Sincerely,

A handwritten signature in cursive script that reads "Michael J. Sullivan". The signature is written in dark ink and is positioned above the printed name and title.

Michael J. Sullivan  
Director

MJS/cp  
Enclosure